

(8) The estimated tonnage held by handlers in primary or secondary inventory reserves; and

(9) Any estimated release of primary or secondary inventory reserve cherries during the crop year.

(f) *Modification.* In the event the Board subsequently deems it advisable to modify its marketing policy, because of national emergency, crop failure, or other major change in economic conditions, it shall hold a meeting for that purpose, and file a report thereof with the Secretary within 5 days (exclusive of Saturdays, Sundays, and holidays) after the holding of such meeting, which report shall show the Board's recommended modification and the basis therefor.

(g) *Additional tonnage to sell as free tonnage.* In addition, the Board, in years when restricted percentages are established, shall make available tonnage equivalent to an additional 10 percent, if available, of the average sales of the prior 3 years, as defined in paragraph (a) of this section, for market expansion.

(h) *Publicity.* The Board shall promptly give reasonable publicity to growers and handlers of each meeting to consider a marketing policy or any modification thereof, and each such meeting shall be open to them and to the public. Similar publicity shall be given to growers and handlers of each marketing policy report or modification thereof, filed with the Secretary and of the Secretary's action thereon. Copies of all marketing policy reports shall be maintained in the office of the Board, where they shall be made available for examination. The Board shall notify handlers, and give reasonable publicity to growers, of its computation of the optimum supply, preliminary percentages, and interim percentages and shall notify handlers of the Secretary's action on final percentages by registered or certified mail.

(i) *Restricted Percentages.* Restricted percentage requirements established under paragraphs (b), (c) or (d) of this section may be fulfilled by handlers by either establishing an inventory reserve in accordance with § 930.55 or § 930.57 or by diversion of product in accordance with § 930.59. In years where required, the Board shall establish a

maximum percentage of the restricted quantity which may be established as a primary inventory reserve such that the total primary inventory reserve does not exceed 50 million pounds. Handlers will be permitted to divert (at plant or with grower-diversion certificates) as much of the restricted percentage requirement as they deem appropriate, but may not establish a primary inventory reserve in excess of the percentage established by the Board for restricted cherries. In the event handlers wish to establish inventory reserve in excess of this amount, they may do so, in which case it will be classified as a secondary inventory reserve and will be regulated accordingly.

(j) *Inventory Reserve Release.* In years when inventory reserve cherries are available and when the expected availability of cherries from the current crop plus expected carryin inventory does not fulfill the optimum supply, the Board shall release not later than November 1st of the current crop year such volume from the inventory reserve as will satisfy the optimum supply.

(k) The Board, with the approval of the Secretary, may establish rules and regulations necessary and incidental to the administration of this section.

[61 FR 49942, Sept. 24, 1996, as amended at 66 FR 35896, July 10, 2001; 67 FR 51714, Aug. 8, 2002]

**§ 930.51 Issuance of volume regulations.**

(a) Whenever the Secretary finds, from the recommendation and supporting information supplied by the Board, that to designate final free market tonnage and restricted percentages for any cherries acquired by handlers during the crop year will tend to effectuate the declared policy of the Act, the Secretary shall designate such percentages. Such regulation designating such percentage shall fix the free market tonnage and restricted percentages, totaling 100 percent, which shall be applied in accordance with this section, §§ 930.55, 930.57 and 930.59 to cherries grown in regulated districts, as determined under § 930.52, and handled during such fiscal period.

(b) The Board shall be informed immediately of any such regulation

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issued by the Secretary, and the Board shall promptly give notice thereof to handlers.

(c) That portion of a handler's cherries that are restricted percentage cherries is the product of the restricted percentage imposed under paragraph (a) of this section multiplied by the tonnage of cherries, originating in a regulated district, handled, including those diverted according to § 930.59, by that handler in that fiscal year.

(d) The Board, with the approval of the Secretary, shall develop rules and regulations which shall provide guidelines for handlers in complying with any restricted tonnage requirements, including, but not limited to, a grace period of at least 30 days to segregate and appropriately document any tonnage they wish to place in the inventory reserve and to assemble any applicable diversion certificates.

[61 FR 49942, Sept. 24, 1996 as amended at 67 FR 51714, Aug. 8, 2002]

### **§ 930.52 Establishment of districts subject to volume regulations.**

(a) The districts in which handlers shall be subject to any volume regulations implemented in accordance with this part shall be those districts in which the average annual production of cherries over the prior 3 years has exceeded 6 million pounds. Handlers shall become subject to volume regulation implemented in accordance with this part in the crop year that follows any 3-year period in which the 6-million pound average production requirement is exceeded in that district.

(b) Handlers in districts which are not subject to volume regulation would only be so regulated to the extent that they handled cherries which were grown in a district subject to regulation as specified in paragraph (a) of this section. In such a case, the handler must place in inventory reserve pursuant to § 930.55 or § 930.57 or divert pursuant to § 930.59 the required restricted percentage of the crop originating in the regulated district.

(c) Handlers in districts not meeting the production requirement described in paragraph (a) of this section in a given year would not be subject to volume regulation in the next crop year.

(d) Any district producing a crop which is less than 50 percent of the average annual processed production in that district in the previous five years would be exempt from any volume regulation if, in that year, a restricted percentage is established.

(e) The Board, with the approval of the Secretary, may establish rules and regulations necessary and incidental to the administration of this section.

[61 FR 49942, Sept. 24, 1996 as amended at 67 FR 51714, Aug. 8, 2002]

### **§ 930.53 Modification, suspension, or termination of regulations.**

(a) In the event the Board at any time finds that, by reason of changed conditions, any regulations issued pursuant to §§ 930.44 or 930.51 should be modified, suspended, or terminated, it shall so recommend to the Secretary.

(b) Whenever the Secretary finds, from the recommendations and information submitted by the Board or from other available information, that a regulation issued pursuant to §§ 930.44 or 930.51 should be modified, suspended or terminated with respect to any or all shipments of cherries in order to effectuate the declared policy of the Act, the Secretary shall modify, suspend, or terminate such regulation.

### **§ 930.54 Prohibition on the use or disposition of inventory reserve cherries.**

Cherries that are placed in inventory reserve pursuant to the requirements of § 930.50, § 930.51, § 930.55, or § 930.57 shall not be used or disposed of by any handler or any other person except as provided in § 930.50 or in paragraphs (a), (b), or (c) of this section.

(a) If the Board determines that the total available supplies for use in commercial outlets are less than the amount needed to meet the demand in such outlets, the Board may recommend to the Secretary that a portion or all of the primary and/or secondary inventory reserve cherries be released for such use.

(b) The Board may recommend to the Secretary that a portion or all of the primary and/or secondary inventory reserve cherries be released for sale in certain designated markets. Such designated markets may be defined in